

AMENDED IN ASSEMBLY MARCH 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1143

Introduced by Assembly Member Ma

February 27, 2009

An act to amend Section ~~307~~ 306.5 of the Family Code, and to amend Section ~~103180~~ of the Health and Safety Code, relating to vital records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1143, as amended, Ma. ~~License and Certificate of Non-Clergy Marriage: registration.~~ *Marriage: name.*

Existing law prescribes the requirements for registration of a marriage, including the contents of a certificate of registry of marriage. Existing law requires that each marriage performed be registered by the person performing the ceremony. Existing law creates an exemption from this requirement for members of a religious society or denomination not having clergy. Existing law requires those persons to file a License and Certificate of Non-Clergy Marriage containing specified information, and further requires that the certificate be registered with the county within 10 days of the ceremony.

This bill would extend the time by which a License and Certificate of Non-Clergy Marriage is required to be registered to 15 days following the ceremony.

Existing law allows one or both parties to a marriage to change the middle or last name by which that party wishes to be known after solemnization of the marriage. Existing law also requires the adoption of a new name, or the choice not to adopt a new name, by means of a marriage license application to be made only at the time the license is issued, as provided.

This bill would allow one or both parties to change both the middle and last names by which that party wishes to be known after solemnization of the marriage. This bill would also allow for an amendment to be issued to correct a clerical error in the new name fields on the marriage license, as provided.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 306.5 of the Family Code is amended to
2 read:

3 306.5. (a) Parties to a marriage shall not be required to have
4 the same name. Neither party shall be required to change his or
5 her name. A person's name shall not change upon marriage unless
6 that person elects to change his or her name pursuant to subdivision
7 (b).

8 (b) (1) One party or both parties to a marriage may elect to
9 change the middle or last names by which that party wishes to be
10 known after solemnization of the marriage by entering the new
11 name in the spaces provided on the marriage license application
12 without intent to defraud.

13 (2) A person may adopt any of the following middle or last
14 names, *or both*, pursuant to paragraph (1):

15 (A) The current last name of the other spouse.

16 (B) The last name of either spouse given at birth.

17 (C) A name combining into a single *middle or* last name all or
18 a segment of *any combination of* the current *middle or* last name
19 or the last name of either spouse given at birth.

20 (D) A hyphenated combination of last names.

21 (3) (A) An election by a person to change his or her name
22 pursuant to paragraph (1) shall serve as a record of the name
23 change. A certified copy of a marriage certificate containing the
24 new name, or retaining the former name, shall constitute proof
25 that the use of the new name or retention of the former name is
26 lawful.

27 (B) A certified copy of a marriage certificate shall be accepted
28 as identification establishing a true, full name for purposes of
29 Section 12800.7 of the Vehicle Code.

(C) Nothing in this section shall be construed to prohibit the Department of Motor Vehicles from accepting as identification other documents establishing a true, full name for purposes of Section 12800.7 of the Vehicle Code. Those documents may include, without limitation, a certified copy of a marriage certificate recording a marriage outside of this state.

(D) This section shall be applied in a manner consistent with the requirements of Sections 1653.5 and 12801 of the Vehicle Code.

(4) The adoption of a new name, or the choice not to adopt a new name, by means of a marriage license application pursuant to paragraph (1) shall only be made at the time the marriage license is issued. After a marriage certificate is registered by the local registrar, the certificate may not be amended to add a new name or change the name adopted pursuant to paragraph (1). *An amendment may be issued to correct a clerical error in the new name fields on the marriage license. In this instance, the amendment must be signed by one of the parties to the marriage and the county clerk or his or her deputy, and the reason for the amendment must be stated as correcting a clerical error. A clerical error as used in this part is an error made by the county clerk, his or her deputy, or a notary authorized to issue confidential marriage licenses, whereby the information shown in the new name field does not match the information shown on the marriage license application.* This requirement shall not abrogate the right of either party to adopt a different name through usage at a future date, or to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

(c) Nothing in this section shall be construed to abrogate the common law right of any person to change his or her name, or the right of any person to petition the superior court for a change of name pursuant to Title 8 (commencing with Section 1275) of Part 3 of the Code of Civil Procedure.

(d) This section shall become operative on January 1, 2009.

~~SECTION 1. Section 307 of the Family Code is amended to read:~~

~~307. This division, so far as it relates to the solemnizing of marriage, is not applicable to members of a particular religious society or denomination not having clergy for the purpose of~~

~~solemnizing marriage or entering the marriage relation, if all of the following requirements are met:~~

~~(a) The parties to the marriage sign and endorse on the form prescribed by the State Department of Public Health, showing all of the following:~~

~~(1) The fact, time, and place of entering into the marriage.~~

~~(2) The printed names, signatures, and mailing addresses of two witnesses to the ceremony.~~

~~(3) The religious society or denomination of the parties to the marriage, and that the marriage was entered into in accordance with the rules and customs of that religious society or denomination. The statement of the parties to the marriage that the marriage was entered into in accordance with the rules and customs of the religious society or denomination is conclusively presumed to be true.~~

~~(b) The License and Certificate of Non-Clergy Marriage, endorsed pursuant to subdivision (a), is returned to the county recorder of the county in which the license was issued within 15 days after the ceremony.~~

~~SEC. 2. Section 103180 of the Health and Safety Code is amended to read:~~

~~103180. (a) Sections 103150 and 103175 do not apply to marriages entered into pursuant to Section 307 of the Family Code. Subdivisions (b) and (c) govern the registration and the content of the License and Certificate of Non-Clergy Marriage of those marriages.~~

~~(b) Each marriage entered into pursuant to Section 307 of the Family Code shall be registered by the parties entering into the marriage or by a witness who signed under paragraph (2) of subdivision (a) of Section 307 of the Family Code within 15 days after the ceremony with the local registrar of marriages for the county in which the License and Certificate of Non-Clergy Marriage was issued.~~

~~(c) The License and Certificate of Non-Clergy Marriage entered into pursuant to Section 307 of the Family Code shall contain as nearly as can be ascertained the following:~~

~~(1) The personal data of each party married, including the date of birth, full given name at birth or by court order, birthplace, mailing address, names and birthplaces of each party's parents, last names at birth of each party's parents, the number of previous~~

1 ~~marriages, marital status, the name used prior to the intended~~
2 ~~marriage by each party at the time of the marriage license~~
3 ~~application, if the name is different from the name given at birth~~
4 ~~or by court order, and the new name, if any, selected by each party~~
5 ~~for intended use upon solemnization of the marriage.~~

6 ~~(2) The license to marry.~~

7 ~~(3) The county and date of issuance of the license.~~

8 ~~(4) The marriage license number.~~

9 ~~(5) The certification of the parties entering into the marriage,~~
10 ~~that shall show the following:~~

11 ~~(A) The fact, time, and place of entering into the marriage.~~

12 ~~(B) The printed name, signature, and mailing address of two~~
13 ~~witnesses to the marriage ceremony.~~

14 ~~(C) The religious society or denomination of the parties married,~~
15 ~~and that the marriage was entered into in accordance with the rules~~
16 ~~and customs of that religious society or denomination.~~

17 ~~(6) The signatures of the parties married.~~

18 ~~(7) Any other items that the State Registrar shall designate.~~

19 ~~(d) The License and Certificate of Non-Clergy Marriage shall~~
20 ~~not contain any reference to the race or color of parties married or~~
21 ~~to a person performing or solemnizing the marriage.~~